

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>UNITED STATES OF AMERICA</b>	: <b>CRIMINAL NO. 08-</b> _____
<b>v.</b>	: <b>DATE FILED:</b> <u>January 29, 2007</u>
<b>JOSEPH J. SMITH</b>	: <b>VIOLATIONS:</b>
<b>CYNTHIA R. McDONOUGH</b>	: <b>18 U.S.C. § 371 (conspiracy – 1 count)</b>
	: <b>26 U.S.C. § 7206 (filing false tax returns – 6 counts)</b>
	: <b>26 U.S.C. § 7203 (failure to file tax returns – 3 counts)</b>
	:

**I N D I C T M E N T**

**COUNT ONE**

**CONSPIRACY TO DEFRAUD THE UNITED STATES OF AMERICA**

**THE GRAND JURY CHARGES THAT:**

At all times material to this indictment:

1. Defendant JOSEPH J. SMITH owned and operated several businesses located at 4828 Tacony Street, Philadelphia, Pennsylvania, including Universal Collision Center, Inc.
2. Universal Collision Center, Inc., was a Pennsylvania corporation, formed on February 17, 1981, that was engaged in auto body and collision repair services.
3. Defendant JOSEPH J. SMITH also was president of Universal Building and Construction, Inc., a Pennsylvania corporation formed on December 15, 2000. Defendant SMITH operated Universal Building and Construction, Inc. for the purpose of, among other

things, building a luxury vacation home in Longport, New Jersey for him and defendant CYNTHIA R. McDONOUGH.

4. Defendant CYNTHIA R. McDONOUGH was president of Precision Auto Body Rebuilders, Inc., a Pennsylvania corporation, formed on January 9, 2003, that was engaged in auto body and collision repair services. Precision Auto Body Rebuilders, Inc. also operated its business at 4828 Tacony Street, Philadelphia, Pennsylvania. Defendant McDONOUGH began operating Precision Auto Body Rebuilders, Inc. in or about January 2003, following the Chapter 7 bankruptcy case of Universal Collision Center, Inc.

5. Defendants JOSEPH J. SMITH and CYNTHIA R. McDONOUGH have lived together for many years.

#### **THE CONSPIRACY**

6. From in or about 2001 and to at least on or about December 31, 2004, in the Eastern District of Pennsylvania, and elsewhere, defendants

#### **JOSEPH J. SMITH and CYNTHIA R. McDONOUGH**

conspired and agreed, together and with others known and unknown to the grand jury, to commit offenses against the United States, that is to knowingly defraud the United States by impeding, impairing, obstructing, and defeating the lawful functions of its agency, the Department of the Treasury, Internal Revenue Service (“IRS”), in the ascertainment, computation, assessment, and collection of taxes, in violation of Title 18, United States Code, Section 371.

#### **MANNER AND MEANS**

It was part of the conspiracy that:

7. Defendants JOSEPH J. SMITH and CYNTHIA R. McDONOUGH skimmed substantial cash generated by Universal Collision Center, Inc. and Precision Auto Body Rebuilders, Inc. and used such cash to pay various personal expenses and for the construction of a luxury vacation home.

8. Defendants JOSEPH J. SMITH and CYNTHIA R. McDONOUGH skimmed such cash by regularly cashing checks made payable to their businesses at a local check cashing agency and depositing the cash into their personal and business bank accounts.

9. Defendants JOSEPH J. SMITH and CYNTHIA R. McDONOUGH defrauded the IRS by failing to report and account for the full amount of the gross receipts of Universal Collision Center, Inc. and Precision Auto Body Rebuilders, Inc., by diverting to their own use substantial unreported cash income, namely payments received by Universal Collision Center, Inc. and Precision Auto Body Rebuilders, Inc. for services performed by the businesses, to pay personal and other expenses, resulting in a total tax loss of at least approximately \$517,688.

10. Defendant JOSEPH J. SMITH failed to file tax returns for tax years 2001, 2002, and 2003 and failed to report and account for income received during those years, even though he was required to do so.

11. Defendants JOSEPH J. SMITH and CYNTHIA R. McDONOUGH filed false tax returns for Universal Collision Center, Inc. and Precision Auto Body Rebuilders, Inc., businesses that they owned and controlled, for tax years 2002, 2003, and 2004. Defendants SMITH and McDONOUGH knew that these returns significantly understated the income of Universal Collision Center, Inc. and Precision Auto Body Rebuilders, Inc. for these years.

12. Defendants JOSEPH J. SMITH and CYNTHIA R. McDONOUGH also defrauded the IRS by filing false tax returns for tax years 2003 and 2004 by failing to report to the IRS and failing to account for approximately \$330,298 in income received from Universal Building and Construction, Inc. and Precision Auto Body Rebuilders, Inc., businesses that they owned and controlled.

### **OVERT ACTS**

In furtherance of the conspiracy, defendants JOSEPH J. SMITH and CYNTHIA R. McDONOUGH, and others known and unknown to the grand jury, committed the following overt acts in the Eastern District of Pennsylvania and elsewhere:

#### **A. THE RECEIPT OF UNREPORTED INCOME IN 2001**

1. During calendar year 2001, defendant CYNTHIA R. McDONOUGH made cash deposits of approximately \$23,610 into her personal bank account.

2. During calendar year 2001, defendant JOSEPH J. SMITH transferred approximately \$158,826 from Universal Collision Center, Inc.'s checking account at Firsttrust Bank to his "Real Estate" account at Firsttrust Bank to pay for personal items such as the construction of his residence in Bensalem, Pennsylvania, the construction of a luxury vacation home in Longport, New Jersey, and various other personal expenses.

3. During calendar year 2001, defendant JOSEPH J. SMITH deposited to his "Real Estate" account at Firsttrust Bank approximately \$36,721 in insurance company checks payable to Universal Collision Center, Inc. for services performed by the business.

4. During calendar year 2001, defendant JOSEPH J. SMITH made cash deposits of approximately \$85,801 into his "Real Estate" account at Firsttrust Bank.

5. During calendar year 2001, defendant JOSEPH J. SMITH paid over approximately \$34,647 in insurance company checks payable to Universal Collision Center, Inc. for services performed by the business to Professional Building Systems, Inc. as payment for the construction of his residence at 2711 Hulmeville Road, Bensalem, Pennsylvania.

6. During calendar year 2001, defendants JOSEPH J. SMITH and CYNTHIA R. McDONOUGH paid approximately \$54,110 in personal expenses with funds taken directly from the checking account of Universal Collision Center, Inc.

7. On or about April 15, 2002, defendant JOSEPH J. SMITH willfully failed to file with the IRS his tax return for tax year 2001, even though he was required to do so, in that he received total income substantially in excess of the minimum filing requirement of \$7,450.

8. On or about March 15, 2002, defendant JOSEPH J. SMITH, as president of Universal Collision Center, Inc., willfully failed to file with the IRS an income tax return for the business for tax year 2001, even though the business was required to do so, in particular, defendant SMITH failed to report that the business received more than approximately \$1,800,000 in gross receipts during the year 2001.

**B. THE RECEIPT OF UNREPORTED INCOME IN 2002**

9. During calendar year 2002, defendant CYNTHIA R. McDONOUGH made cash deposits of approximately \$84,722 into her personal bank account.

10. During calendar year 2002, defendant JOSEPH J. SMITH made cash deposits of approximately \$58,674 into his "Real Estate" account at Firsttrust Bank.

11. During calendar year 2002, defendants JOSEPH J. SMITH and CYNTHIA R. McDONOUGH paid approximately \$77,994 in personal expenses directly from the checking account of Universal Collision Center, Inc.

12. On or about July 20, 2004, defendant JOSEPH J. SMITH, as president of Universal Collision Center, Inc., caused to be filed with the IRS a tax return for the business for tax year 2002, that was verified by a written declaration that it was made under the penalty of perjury, and which defendant SMITH did not believe to be true and correct as to every material matter, in that the return substantially under reported the business' gross receipts, when in fact, defendant SMITH well knew that its gross receipts were substantially more than the \$581,621 that he reported, namely, defendant SMITH failed to report more than approximately \$550,342 in cash receipts from its operations.

13. On or about April 15, 2003, defendant JOSEPH J. SMITH willfully failed to file with the IRS his tax return for tax year 2002, even though he was required to do so, in that he received total income substantially in excess of the minimum filing requirement of \$7,700.

**C. THE RECEIPT OF UNREPORTED INCOME IN 2003**

14. During calendar year 2003, defendant CYNTHIA R. McDONOUGH deposited approximately \$188,353 in cash into her personal bank accounts from numerous checks paid to Precision Auto Body Rebuilders, Inc. by insurance companies and customers for services performed by the business.

15. On or about March 24, 2003, defendant JOSEPH J. SMITH sold his residence located at 2711 Hulmeville Road, Bensalem, Pennsylvania to S. P., the sister of defendant CYNTHIA R. McDONOUGH, falsely claiming the consideration for the sale was \$380,000. Defendants SMITH and McDONOUGH were well aware that the transfer to S.P. was fraudulent and defendant SMITH transferred the property for the sole purpose of placing his property beyond the reach of the IRS and other creditors.

16. On or about March 24, 2003, in order to complete the sale of the 2711 Hulmeville Road property, defendant CYNTHIA R. McDONOUGH sought the assistance of her sister, S.P. Although S.P. was listed as the buyer of the property, she never resided at that location. Defendants JOSEPH J. SMITH and McDONOUGH continuously used the property as their residence after the sale and paid all expenses relating to the property.

17. On or about March 24, 2003, defendant CYNTHIA R. McDONOUGH aided and assisted in the transfer of the 2711 Hulmeville Road property by appearing at the closing and presenting herself to the title clerk as the buyer, S.P. Defendant McDONOUGH presented photo identification for S.P. and executed closing documents in the name of S.P.

18. In or about November 2003, defendant JOSEPH J. SMITH sold real estate located at 32 Seaview Drive, Longport, New Jersey that he owned, receiving approximately \$534,900 in net proceeds from the sale.

19. On or about April 15, 2004, defendant JOSEPH J. SMITH willfully failed to file with the IRS his tax return for tax year 2003, even though he was required to do so, in that he received total income substantially in excess of the minimum filing requirement of \$7,800.

20. On or about April 15, 2004, defendant CYNTHIA R. McDONOUGH caused to be filed with the IRS her tax return for tax year 2003, that was verified by a written declaration that it was made under the penalty of perjury, and which defendant McDONOUGH did not to believe to be true and correct as to every material matter, in that the return substantially under reported her total income, when, in fact, defendant McDONOUGH well knew her total income was substantially more than the \$3,929 that she reported to the IRS, namely, she received more than approximately \$188,353 in unreported cash from her business, Precision Auto Body Rebuilders, Inc.

21. On or about March 20, 2004, defendant CYNTHIA R. McDONOUGH, as president of Precision Auto Body Rebuilders, Inc., caused to be filed with the IRS the tax return for the business for the 2003 tax year, that was verified by a written declaration that it was made under the penalty of perjury, and which defendant McDONOUGH did not believe to be true and correct as to every material matter, in that the return substantially under reported the business' gross receipts, when in fact, defendant McDONOUGH well knew that its gross receipts were substantially more than the \$278,047 that she reported to the IRS, namely, she failed to report more than approximately \$537,796 in cash receipts from business operations during tax year 2003.

**D. THE RECEIPT OF UNREPORTED INCOME IN 2004**

22. During calendar year 2004, defendant JOSEPH J. SMITH paid approximately \$92,600 in personal expenses from the checking account of his business, Universal Building and Construction, Inc.

23. During calendar year 2004, defendant CYNTHIA R. McDONOUGH deposited approximately \$49,285 in cash into her personal bank accounts from numerous checks paid to Precision Auto Body Rebuilders, Inc. by insurance companies and customers for services performed by the business.

24. On or about October 26, 2005, defendant JOSEPH J. SMITH caused to be filed with the IRS his tax return for the year 2004, that was verified by a written declaration that it was made under the penalty of perjury, and which defendant SMITH did not believe to be true and correct as to every material matter, in that the return substantially under reported his total income, when, in fact, he well knew his total income was substantially more than the \$100,658 that he reported to the IRS, namely, defendant SMITH received more than approximately



\$92,660 in personal expenses paid on his behalf by Universal Building & Construction, Inc., a business that he owned and operated.

25. On or about April 15, 2005, defendant CYNTHIA R. McDONOUGH caused to be filed with the IRS her tax return for tax year 2004, that was verified by a written declaration that it was made under the penalty of perjury, and which defendant McDONOUGH did not believe to be true and correct as to every material matter, in that the return under reported her total income, when, in fact, she well knew her total income was substantially more than the loss of \$33,770 that she reported to the IRS, namely, defendant McDONOUGH received more than approximately \$49,285 in unreported cash from her business, Precision Auto Body Rebuilders, Inc.

26. On about March 20, 2005, defendant CYNTHIA R. McDONOUGH, as president of Precision Auto Body Rebuilders, Inc., caused to be filed with the IRS the tax return for the business for tax year 2004, that was verified by a written declaration that it was made under the penalty of perjury, and which defendant McDONOUGH substantially under reported the business' gross receipts, when in fact, defendant McDONOUGH well knew that its gross receipts were substantially more than the \$574,301 that she reported to the IRS, namely, she failed to report more than approximately \$743,041 in cash receipts from business operations.

All in violation of Title 18, United States Code, Section 371.

**COUNT TWO**

**FAILURE TO FILE TAX RETURN – JOSEPH J. SMITH (2001)**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. From on or about January 1, 2001 through on or about December 31, 2001, defendant JOSEPH J. SMITH received gross income consisting of at least approximately \$24,387, and other cash income from his business, Universal Collision Center, Inc.

2. On or about April 15, 2002, in the Eastern District of Pennsylvania, defendant

**JOSEPH J. SMITH,**

a resident of Bensalem, Pennsylvania, had and received gross income substantially in excess of the minimum filing requirement of \$7,450 and that by reason of such gross income he was required by law, following the close of each calendar year, and on or before April 15 of the following year, to make an income tax return to the Director, Internal Revenue Service Center, at Philadelphia, Pennsylvania, or other proper officer of the United States, stating specifically the items of his gross income and any deductions and credits to which he was entitled; that knowing this, he willfully failed to make an income tax return to the Director of the Internal Revenue Service Center, or to any other proper officer of the United States.

In violation of Title 26, United States Code, Section 7203.

**COUNT THREE**

**FAILURE TO FILE TAX RETURN – JOSEPH J. SMITH (2002)**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. From on or about January 1, 2002 through on or about December 31, 2002, defendant JOSEPH J. SMITH received gross income consisting of at least approximately \$17,598, and other cash income from his business, Universal Collision Center, Inc.

2. On or about April 15, 2003, in the Eastern District of Pennsylvania, defendant

**JOSEPH J. SMITH,**

a resident of Bensalem, Pennsylvania, had and received gross income substantially in excess of the minimum filing requirement of \$7,700 and that by reason of such gross income he was required by law, following the close of each calendar year, and on or before April 15 of the following year, to make an income tax return to the Director, Internal Revenue Service Center, at Philadelphia, Pennsylvania, or other proper officer of the United States, stating specifically the items of his gross income and any deductions and credits to which he was entitled; that knowing this, he willfully failed to make an income tax return to the Director of the Internal Revenue Service Center, or to any other proper officer of the United States.

In violation of Title 26, United States Code, Section 7203.

**COUNT FOUR**

**FAILURE TO FILE TAX RETURN – JOSEPH J. SMITH (2003)**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. From on or about January 1, 2003 through on or about December 31, 2003, defendant JOSEPH J. SMITH received gross income consisting of at least approximately \$2,050,834, including unreported cash income and the proceeds from the sale of real property located at 32 Seaview Drive, Longport, New Jersey.

2. On or about April 15, 2004, in the Eastern District of Pennsylvania, defendant

**JOSEPH J. SMITH,**

a resident of Bensalem, Pennsylvania, had and received gross income substantially in excess of the minimum filing requirement of \$7,800 and that by reason of such gross income he was required by law, following the close of each calendar year, and on or before April 15 of the following year, to make an income tax return to the Director, Internal Revenue Service Center, at Philadelphia, Pennsylvania, or other proper officer of the United States, stating specifically the items of his gross income and any deductions and credits to which he was entitled; that knowing this, he willfully failed to make an income tax return to the Director of the Internal Revenue Service Center, or to any other proper officer of the United States.

In violation of Title 26, United States Code, Section 7203.

**COUNT FIVE**

**FALSE TAX RETURN OF UNIVERSAL COLLISION (2002)**

**THE GRAND JURY FURTHER CHARGES THAT:**

On or about July 20, 2004, in the Eastern District of Pennsylvania, defendant

**JOSEPH J. SMITH,**

as president of Universal Collision Center, Inc., a corporation with its principal place of business in Philadelphia, Pennsylvania, willfully made and subscribed a United States income tax return, Form 1120S, for the calendar year 2002, on behalf of Universal Collision Center, Inc., that was verified by a written declaration that it was made under the penalty of perjury and filed with the Internal Revenue Service, which defendant SMITH did not believe to be true and correct as to every material matter in that the return substantially under reported its gross receipts as \$581,621, when in fact, as defendant SMITH well knew, its adjusted gross income was substantially more than what he reported on behalf of the corporation, in that it had failed to report more than approximately \$550,342 in cash receipts from its business operations.

In violation of Title 26, United States Code, Section 7206(1).

**COUNT SIX**

**FALSE TAX RETURN OF CYNTHIA R. McDONOUGH (2003)**

**THE GRAND JURY FURTHER CHARGES THAT:**

On or about April 15, 2004, in the Eastern District of Pennsylvania, defendant

**CYNTHIA R. McDONOUGH**

willfully made and subscribed a United States income tax return, Form 1040, for the calendar year 2003, which was verified by a written declaration that it was made under the penalty of perjury and filed with the IRS, which defendant McDONOUGH did not believe to be true and correct as to every material matter, in that the return substantially under reported her total income as \$3,929, when in fact, as defendant McDONOUGH well knew, her total income was substantially more than what she reported, in that she had received more than approximately \$188,353 in unreported cash income from her business, Precision Auto Body Rebuilders, Inc.

In violation of Title 26, United States Code, Section 7206(1).

**COUNT SEVEN**

**FALSE TAX RETURN OF PRECISION AUTO BODY (2003)**

**THE GRAND JURY FURTHER CHARGES THAT:**

On or about September 15, 2004, in the Eastern District of Pennsylvania,  
defendant

**CYNTHIA R. McDONOUGH,**

as president of Precision Auto Body Rebuilders, Inc., a corporation with its principal place of business in Philadelphia, Pennsylvania, willfully made and subscribed a United States income tax return, Form 1120S, for the calendar year 2003, on behalf of Precision Auto Body Rebuilders, Inc., that was verified by a written declaration that it was made under the penalty of perjury and filed with the Internal Revenue Service, which defendant McDONOUGH, did not believe to be true and correct as to every material matter, in that the return substantially under reported its gross receipts as \$278,047, when in fact, as defendant McDONOUGH well knew, its gross receipts were substantially more than what she reported on behalf of the corporation, in that it had failed to report more than approximately \$537,796 in cash receipts from its business operations.

In violation of Title 26, United States Code, Section 7206(1).

**COUNT EIGHT**

**FALSE TAX RETURN OF JOSEPH J. SMITH (2004)**

**THE GRAND JURY FURTHER CHARGES THAT:**

On or about October 26, 2005, in the Eastern District of Pennsylvania, defendant

**JOSEPH J. SMITH**

willfully made and subscribed a United States income tax return, Form 1040, for the calendar year 2004, which was verified by a written declaration that it was made under the penalty of perjury and filed with the Internal Revenue Service, which defendant SMITH did not believe to be true and correct as to every material matter, in that the return reported total income as \$100,658, when in fact, as defendant SMITH well knew, his total income was substantially more than what he reported, in that he had received more than approximately \$92,660 in unreported cash income from his business, Universal Building and Construction, Inc.

In violation of Title 26, United States Code, Section 7206(1).



**COUNT NINE**

**FALSE TAX RETURN OF CYNTHIA R. McDONOUGH (2004)**

**THE GRAND JURY FURTHER CHARGES THAT:**

On or about April 15, 2005, in the Eastern District of Pennsylvania, defendant

**CYNTHIA R. McDONOUGH**

willfully made and subscribed a United States income tax return, Form 1040, for the calendar year 2004, which was verified by a written declaration that it was made under the penalty of perjury and filed with the Internal Revenue Service, which defendant McDONOUGH did not believe to be true and correct as to every material matter, in that the return reported total income as a loss of \$33,770, when in fact, as defendant McDONOUGH well knew, her total income was substantially more than what she reported, in that she had received more than approximately \$49,285 in unreported cash income from her business, Precision Auto Body Rebuilders, Inc.

In violation of Title 26, United States Code, Section 7206(1).

**COUNT TEN**

**FALSE TAX RETURN OF PRECISION AUTO BODY (2004)**

**THE GRAND JURY FURTHER CHARGES THAT:**

On or about March 20, 2005, in the Eastern District of Pennsylvania, defendant

**CYNTHIA R. McDONOUGH,**

as president of Precision Auto Body Rebuilders, Inc., a corporation with its principal place of business in Philadelphia, Pennsylvania, willfully made and subscribed a United States income tax return, Form 1120S, for the calendar year 2004, on behalf of Precision Auto Body Rebuilders, Inc., that was verified by a written declaration that it was made under the penalty of perjury and filed with the Internal Revenue Service, which defendant McDONOUGH did not believe to be true and correct as to every material matter, in that the return substantially under reported gross receipts as \$574,301, when in fact, as defendant McDONOUGH well knew, its gross receipts was substantially more than what she reported on behalf of the corporation, in that it had failed to report more than approximately \$743,041 in cash receipts from its business operations.

In violation of Title 26, United States Code, Section 7206(1).

**A TRUE BILL:**

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**GRAND JURY FOREPERSON**

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**PATRICK L. MEEHAN**  
**United States Attorney**